

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOHN DAVID CAMPBELL,	)	
	)	
v.	)	
	)	Civil Action No. 13-683
CAROLYN W. COLVIN,	)	
ACTING COMMISSIONER OF	)	
SOCIAL SECURITY	)	

MEMORANDUM AND ORDER OF COURT

On May 15, 2013, John David Campbell ("plaintiff"), proceeding *in forma pauperis*, filed a Complaint against defendant Carolyn W. Colvin, the Acting Commissioner of Social Security, for review of a final decision denying his application for social security disability benefits and supplemental security income. The following day, the Clerk of Court for this district issued summons to be served on defendant and on the Office of the United States Attorney for this district.

Rule 4(c) of the Federal Rules of Civil Procedure requires that a summons be served with a copy of the complaint and provides that the "plaintiff is responsible for having the summons and complaint served within the time allowed by Rule 4(m)." In turn, Rule 4(m) requires that a defendant be served "within 120 days after the complaint is filed." Rule 4(l) dictates that proof of service must be made to the court.

The period allowed for plaintiff to serve the summons and complaint expired on September 13, 2013, which was 120-days after the filing of the complaint on May 15, 2013. As of the date of

this order, nearly 5 months after the expiration of the allowable time, the record contains no proof that service has been made.

Rule 4(m) provides that if a defendant is not served within 120 days after the complaint is filed, the court, either on motion or on its own after notice to the plaintiff, must dismiss the action without prejudice or order that service be made within a specified time. However, if the plaintiff shows good cause for the failure, the court must extend the time for service for "an appropriate period."

Accordingly, the court will enter an order that, no later than February 21, 2014, plaintiff must either provide proof of service of the summons and complaint or provide, in writing, good cause for not yet having effectuated service. If good cause is established the court *briefly* will extend the time for service. If proof of service is not made to the court by February 21, 2014, or good cause is not established, this action will be dismissed without prejudice.<sup>1</sup>

An appropriate order follows.

Dated: February 10, 2014

Gustave Diamond  
Gustave Diamond  
United States District Judge

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<sup>1</sup> If plaintiff no longer intends to pursue this action, he also may file a notice of voluntary dismissal under Fed.R.Civ.P. 41(a) (1) (A) at any time prior to February 21, 2014.

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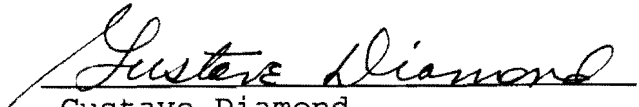
CAROLYN W. COLVIN,  
ACTING COMMISSIONER OF  
SOCIAL SECURITY

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Civil Action No. 13-683

ORDER OF COURT

AND NOW, this 10<sup>th</sup> day of February, 2014, pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, IT IS ORDERED that no later than February 21, 2014, plaintiff John David Campbell shall either provide proof of service on defendant of the summons and complaint in this civil action or provide, in writing, good cause for not yet having effectuated service. Should plaintiff fail to provide proof of service, or to establish good cause, by February 21, 2014, this action will be dismissed without prejudice.

  
Gustave Diamond  
United States District Judge

cc: Mark S. Galper, Esq.  
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